

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

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| USDC EDWI FILED IN GREEN BAY DIV OCT 10 2014 AT _____ O'CLOCK _____ M JON W. SANFILIPPO |
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UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

THOMAS A. GERVAIS
(d.o.b. xx/xx/69)

CASE NUMBER: 14-M- 662

I, Gerald Mullen, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about the following dates, in the State and Eastern District of Wisconsin and elsewhere, Thomas A. Gervais did as follows: **(Count One)** Between October 13, 2008 and February 2013, Gervais did knowingly employ, use, persuade, induce, entice, and coerce known Minor Female A and Minor Female B to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, which visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce, and the visual depiction was transported using any means and facility of interstate and foreign commerce.

I further state that I am a Special Agent with the Federal Bureau of Investigation, and this complaint is based on the following facts:

Please see the attached affidavit.

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Gerald E. Mullen
Signature of Complainant
Gerald Mullen

Sworn to before me and subscribed in my presence,

10/10/14
Date

The Honorable James R. Sickel
United States Magistrate Judge
Name & Title of Judicial Officer

at Green Bay, Wisconsin

[Signature]
Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT & ARREST WARRANT

Gerald Mullen, being first duly sworn, states that:

Background

1. I have been employed as a Special Agent of the FBI since August 1996, and am currently assigned to the Green Bay Resident Agency, Wisconsin. While employed by the FBI, I have investigated federal criminal violations related to high technology or cybercrime, child exploitation, and child pornography. I have gained experience through training at seminars, classes, discussions with other knowledgeable agents and everyday work related to conducting these types of investigations. I have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media including computer media.

2. I am aware of the following federal statutes concerning child pornography:

a. 18 U.S.C. § 2251(a) and (e) prohibits any person from employing, using, persuading, inducing, enticing, or coercing any minor to engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, or attempting or

conspiring to do so.

b. 18 U.S.C. § 2252A(a)(2)(A) and (b)(1) prohibits a person from knowingly receiving or distributing, or attempting or conspiring to receive or distribute, any child pornography or any material that contains child pornography, as defined in 18 U.S.C. § 2256(8), that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

c. 18 U.S.C. § 2252A(a)(5)(B) and (b)(2) prohibits a person from knowingly possessing or knowingly accessing with intent to view, or attempting or conspiring to do so, any material that contains an image of child pornography, as defined in 18 U.S.C. § 2256(8), that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

Basis for Information in Affidavit

3. The statements contained in this affidavit are based in part on the following: information provided by FBI Special Agents; written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement agents; information gathered from the service of administrative subpoenas; the results of physical and electronic surveillance conducted by federal agents; independent investigation and analysis by FBI agents/analysts and computer forensic professionals; and my experience, training and background as a Special Agent (SA) with the FBI. This affidavit includes only those facts that I believe are

necessary to establish probable cause and does not include all of the facts uncovered during the investigation. Based on my investigation and the information supplied to me by other law enforcement personnel, I have probable cause to believe the following regarding Thomas Gervais, dob XX/XX/69.

Facts Establishing Probable Cause

4. In July 2014, law enforcement agents arrested a subject, hereinafter S1, on charges involving the production of child pornography. S1 was subsequently interviewed by law enforcement agents and admitted to sexually abusing children, producing child pornography, and trading child pornography over the Internet with other individuals who sexually abused children and produced child pornography. S1 also told law enforcement agents that he communicated with other child pornography producers and traded child pornography.

5. Law enforcement recovered from S1's computer various images of child pornography that S1 received from another individual, believed to be Gervais. The children in the images are pre-pubescent females, identified hereafter as Minor Female A and Minor Female B. The images depict the children performing oral sex on a Caucasian adult male, being vaginally penetrated by an adult male's penis, being urinated on by an adult male, having been ejaculated on by an adult male, and displaying their vaginal area in a lascivious manner. In the background of several of these images, various items such as a bed, bedding, and clothing are identifiable.

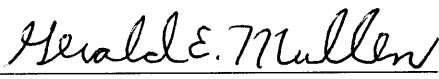
6. Some, but not all, of the images contained metadata – that is, data within data – which includes information about the images which is embedded in the image itself. Metadata can include, among other things, information about the date, time, and location at which an image is created, or the device used to create an image. According to metadata contained within some of the images distributed by Gervais to S1, the dates of creation of some of the images ranged from

between October of 2008 and February of 2013. Further, the images were taken with a Canon Powershot A590IS camera.

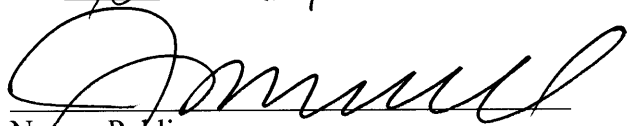
7. On October 10, 2014, a federal search warrant was executed at the residence of Thomas Gervais, located at 1113 8th Avenue, Antigo, State and Eastern District of Wisconsin. When the warrant was executed, Gervais was located at the premises. Upon searching the premises, agents located a Canon Powershot camera that was produced in Malaysia, thus with materials that traveled in foreign and interstate commerce. Agents further recovered several computers and observed a bed and bedding items consistent with that in several of the images containing sexually explicit images of Minor Female A and Minor Female B.

8. FBI Special Agents located and interviewed an adult, W1, who was present upon execution of the search warrant. W1 was shown some of the above referenced sexually explicit images. W1 identified the minors in those images as Minor Female A (DOB XX-XX-03) and Minor Female B (DOB XX-XX-05) and provided their dates of birth to law enforcement. W1 has known the minors for their entire lives. W1 stated that Gervais has had regular access to and contact with both minors throughout their lives. W1, who has known Gervais for longer than ten years, also identified Gervais as the male subject in one of the images based on some of his unique body markings. W1 also identified the Canon Powershot camera recovered as a camera used by Gervais for at least the last ten years.

9. Based upon the foregoing information, I believe there is probable cause to believe that Thomas Gervais produced images of child pornography in violation of 18 U.S.C. § 2251(a) on the above referenced dates.


Affiant Gerald Mullen

Subscribed and sworn to before me
this 10 day of oct, 2014.



Notary Public
My commission expires: 12/31/15